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Federal Communications Commission
Office of the Secretary

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FCC MAIL BRANCH

May 23, 1992

The Office of the Secretary
Federal Communications Commission
1919 M Street NW
Washington, D.C. 00554

Re: Comment on Notice of Proposed Rulemaking
Telephone Consumer Protection Act of 1991

To Whom It May Concern:

Enclosed is the comment of Digital Systems International, Inc., plus nine copies, submitted in accordance with the instructions contained in the FCC's Notice of Proposed Rulemaking released April 17, 1992.

Very truly yours,

Wm. Bradford Weller
General Counsel

enc.

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ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

RECEIVED

MAY 26 1992

In the Matter of

The Telephone Consumer
Protection Act of 1991

)
) Federal Communications Commission
) Office of the Secretary

CC Docket No. 92-99

RECEIVED

MAY 26 1992

FCC MAIL BRANCH

COMMENT OF
DIGITAL SYSTEMS INTERNATIONAL, INC.,
TO
FCC NOTICE OF PROPOSED RULEMAKING
(Adopted April 10, 1992; Released April 17, 1992)

I. INTRODUCTION

As the leading manufacturer and marketer of "predictive dialing" equipment in the United States¹, Digital Systems International, Inc. ("Digital Systems"), is grateful for the opportunity to comment on the work accomplished by the FCC in its Notice of Proposed Rulemaking (the "NPR") mandated by the Telephone Consumer Protection Act of 1991 (the "TCPA"). Digital Systems supports the views voiced by Congress and the American people regarding the improper use of automated telephone dialing equipment, and believes reasonable controls can and should be placed on this technology so the American consumer is protected.

Digital Systems' customers include several of the largest and most respected business and public entities in the United States, such as the American Cancer Society, the American Heart Association, Chase Manhattan Bank, Chemical Bank, US West Communications, US Sprint Communications, Bell Canada, Pacific Bell, Wells Fargo Bank, Citibank, McCaw Cellular Communications, GTE Northwest Incorporated, Metropolitan Edison, Boston University, Scott & White Memorial Hospital, New England Telephone, the Houston Post, JC Penney Financial Service Corp. and Dillards. Digital Systems is also presently assisting Bell Canada and the Canadian Radio-television and Telecommunications Commission (the "CRTC") on technical issues relating to consideration by the CRTC of a tariff regulating the use of auto

¹ Marketed under the registered trademark Voicelink® Systems and related Intelligent Call Management™ Systems. For more information about the company, please refer to the Background attached as Exhibit A.

dialers (submitted by Bell Canada and similar in many respects to the kinds of restrictions imposed by the TCPA and now being considered by the FCC).

Digital Systems believes, however, the economic interests of responsible users of such technologies must be balanced rationally against the privacy interests of residential telephone subscribers. The businesses, governmental agencies and public institutions that use predictive dialers and related telephone call management systems have invested over 700 Million dollars in sophisticated technologies and equipment, and employ over fifty thousand people (based on our own industry research). Their purpose isn't to annoy the public or invade their privacy, but to enable themselves to deliver a higher quality of service, to make themselves more productive, more efficient, more competitive, and thereby more profitable. What we continually hear from our customers (listening to our customers and reacting to their needs is what has made Digital Systems one of the fastest growing companies in the United States²) is that they simply **must** find ways to become more efficient if they are to survive, **that they have no choice but to invest in predictive dialing technology**, if they are to adapt successfully to the increasing competitiveness of the global economy. Many of our customers, after installing our equipment, have told us they don't know how they could operate without it.

In using such technologies, entire industries have been fundamentally changed, including not only the telemarketing industry, but the debt collection and service industry, healthcare, retailing and service industries, fundraising entities and government and public service providers. If extreme caution is not taken now to recognize and mitigate against the adverse impacts of the proposed regulations on legitimate uses of predictive dialing equipment, then legitimate, valuable and necessary business activities will be curtailed, as will development and innovation into new ways to become more efficient and profitable, along with the jobs these industries create.

This is a very dangerous time for federal, state and local governments to enact regulations on American businesses that undermine their ability to compete. American business are especially concerned about legislation, such as the TCPA, spawned by the emotional outcry of those who would prohibit all telephone calls to their homes. These interests too often ignore the impacts of such enactments on the American economy. They look at the size of the telemarketing industry, and its growth in recent years, and do not see that hundreds of thousands of American consumers accept solicitation calls on a regular basis, and purchase billions of dollars of goods and services over the telephone. They also do not see the fact that thousands of jobs are created by the retailers that sell such goods and services, nor the fact that thousands of jobs are created by the telemarketing industry itself (which wouldn't even exist if no one was willing to purchase the goods and services marketed this way).

2 Digital Systems was recently recognized as the fastest growing public company in the state of Washington (Puget Sound Business Journal, Jan. 3, 1992) and was recently listed in Inc. magazine's list of the "Top 100 Small Public Companies" (May 1992). In May 1991, Digital Systems was listed by BusinessWeek in its annual ranking of the "100 Best Small Corporations," and in November of 1990, Forbes magazine recognized the company as one of the "200 Best Small Companies in America."

These interests too often see only that they don't like telephone solicitations, and so they must be stopped.

As stated in its preamble, the TCPA is aimed at the telemarketing industry. But, as the FCC is well aware, the statutory language is worded broadly enough to affect all users of automated telephone equipment, not just telemarketers. The FCC has been burdened with the task of establishing reasonable and responsible safe-harbors for legitimate commercial and non-commercial uses of automated telephone equipment, in ways that are at the same time both enforceable and protective of the valid privacy interests of the general public. The FCC has done a remarkable job with this difficult task, for which it should be commended, but for which it will also be subjected to intense political pressure from those who believe that no calls to residential subscribers have any redeeming social or economic value in the face of the public's need for privacy.³ We urge the FCC to hold its course in recognizing that the interests of those who would ban all calls to the home can't and shouldn't be satisfied under the framework of the TCPA. Reasonable privacy interests must be protected, but in balance with protection of the legitimate business interests of those who use automated telephone equipment in a responsible fashion.

In one area in particular, however, Digital Systems believes the FCC needs to do more to achieve this critical balance. Digital Systems submits that Congress did not intend to regulate use of "predictive dialing" systems with enactment of the TCPA. Predictive dialers are intended, designed and used foremost to connect called parties with live operators. This fact distinguishes predictive dialers from auto dialers. But because this distinction may not be fully appreciated by the FCC, legitimate uses of predictive dialers will be restricted under the FCC's proposed regulations, and particularly as a result of the FCC's interpretation of the term "message" as such is used in the TCPA. Most affected by this interpretation will be use of predictive dialing systems for debt collection purposes. At issue specifically is whether debt collectors will run afoul of the Fair Debt Collection Practices Act if bound by the self-identification message requirements of the TCPA.

If Digital Systems could persuade the FCC to do one thing, and one thing only, it would be to adopt a definition for the term "message" such that legitimate and reasonable uses of predictive dialing systems, and specifically debt collection uses, will not be restricted. A suggested definition is offered on page 9 of this Comment for consideration by the FCC. This definition, we believe, strikes a workable balance between the interests the TCPA was enacted to address, on the one hand, and the interests of legitimate users of predictive dialers, on the other hand.

II. OUTBOUND CALL MANAGEMENT TECHNOLOGY

Industry Uses and Benefits -- Background. Obviously, the primary benefit of using outbound dialing technology is the increased productivity and efficiencies offered by automation. Generating telephone calls involves extensive repetitive and

³ Evidence of such pressure can be seen in an article appearing in the Wall Street Journal on May 19, 1992, a copy of which is attached to this Comment as Exhibit B.

time consuming activities. In a manual dialing environment, operators must spend time reviewing paper records or computer terminal screens to identify the number to be dialed, dialing the phone and listening to rings, phone company intercepts, busy signals, answering machines and the like. After a call is completed, the operator spends additional time updating the customer's records. Outbound telephone call management systems were created to address these inefficiencies.

The savings generated by use of such technologies should not be underestimated. Use of predictive dialing equipment generates, on average, a six month or less return on investment. Continued use generates valuable productivity gains and cost savings measuring up to two times original investment every year. Industry wide, we estimate that predictive dialing generates a value of more than a billion dollars per year to the American economy.⁴

Realization of such savings often means the difference between staying in or going out of business. For many public and quasi-public service institutions (utilities, hospitals, schools, government, charities), realizing such savings means more dollars will be available for them to achieve their missions.

Examples of innovative predictive dialer applications include:

Credit Card Fraud Prevention

Issuers of all types of credit cards in America lost \$507 million because of fraud in 1991. Every year, more than \$110 million is lost by credit card issuers on new cards that never reach the intended customer. Chase Manhattan Bank uses a predictive dialing system to contact credit card holders to ensure they have received their new or reissued cards. In this program's first year, the number of fraudulent transactions occurring on never-received cards was reduced by 50%, and more than \$1 Million in losses were avoided.⁵

Healthcare

As consumer concern mounts over the sky rocketing costs of healthcare in the U.S., healthcare providers have been and will increasingly be forced to improve their productivity and overall quality of service, without increasing their operations costs. Predictive dialing technology has allowed many healthcare organizations to tackle significant debt collection problems and increase cash flow, allowing them to contain one important element of the cost of providing healthcare.⁶

4 The tangible reality of such benefits is demonstrated by the testimonial of US West Communications, attached as Exhibit C.

5 See the article on Chase Manhattan Bank appearing in February 7, 1992 issue of the American Banker magazine, a copy of which is attached as Exhibit D.

6 For example, one large hospital using predictive dialing technology increased collections recovery on self pay accounts by \$2.4 million over the previous year. In two years, this hospital added more than

Non-Profit and Higher Education Fundraising

Predictive dialing systems play an integral role in the fundraising programs of universities and non-profit organizations throughout the country. Without the ability to conduct successful and cost effective fundraising campaigns, these organizations would face serious financial setbacks, which would directly and negatively effect the American public. For example, the American Heart Association was able to contact more than twice as many people during its largest educational and fundraising campaign, using fewer people, by using predictive dialing equipment.⁷

Utilities

Regulated utilities (for example, telephone companies and energy utilities) must comply with extensive governmental regulations. For example, most are required to personally contact delinquent customers many times before discontinuing service. Predictive dialing systems allow these entities to quickly and cost effectively meet and often exceed such requirements.

Outbound Calling Technology: ADADs vs. Predictive Dialers. As with most electronic equipment technologies, automated call management systems can be divided into many levels of sophistication. At the low end of the spectrum are "automated dialing recorded message players" or "ADRMPs," also known as "automated dialing announcing devices" or "ADADs." These systems use random or sequential number generation programs to create the numbers to be dialed, store the numbers and dial them automatically. When a connection is made, a recorded message or announcement is played to the called party, who never has the opportunity to talk to a live operator. The system has no idea who it is calling. If the called party hangs up, the system nevertheless plays its entire message, often tying up the line until finished.

The FCC has acknowledged that ADRMPs and ADADs together generated a substantial majority of the kinds of complaints that lead to adoption of the TCPA.⁸ ADRMP and ADAD use is vulnerable to extensive abuse. They are relatively inexpensive (an ADAD average sales price may be \$2,000 per unit, versus a

\$5.7 Million to its personal pay collection efforts. See letter attached as Exhibit E, which is a letter from the hospital's Director of Collection Activities to this company.

7 See Exhibit F attached, which is an American Heart Association Newsletter article discussing their successes with predictive dialing. An additional example is the University of Washington, which, after installing a predictive dialer, was able to use fewer people to contact more alumni and raise more funds than it had ever contacted or raised before. The University achieved a 97% increase in their total number of pledges and a 93% increase in the total number of dollars pledged in 1990. See Exhibit G attached, which is a letter dated August 17, 1990, from the University to this company.

8 See NPR §§23-26, wherein the FCC seeks comment on whether it is in the public's interest to recognize the inherent difference in the nuisance factor of auto dialer calls as opposed to live operator calls. Digital Systems believes that such a distinction must be recognized as a matter of fact, unless the FCC is prepared to outlaw telemarketing as a whole. As discussed below, calls generated by predictive dialers are more akin to live operator calls than auto dialer calls.

predictive dialer system sales price of \$200,000) and have relatively low overhead costs associated with their use, since live operators are not involved. Users therefore can get into the business of using ADRMPs cheaply and easily, and have little incentive to use them in a responsible fashion.

At the other end of the spectrum are predictive dialing systems. These are extremely sophisticated devices that are first and foremost designed to enable the calling party to **connect a live operator with the called party**. The productivity gains with such systems are achieved through the ability of the equipment to 'predict,' as accurately as possible, when live connections will be made (taking into account and filtering out no answers, busy signals, answering machines and telephone company intercepts) and when operators will be available to handle the connection, based on how long it is taking the operators to handle each call. The systems are designed to slow or increase the pace of their outbound calling mission based on these circumstances.

Because the called party talks to a live operator, the systems are not subject to the kinds of abuse that ADRMPs and ADADs are subject to. The numbers dialed are not randomly generated, and the callers know who they are trying to call. The operators identify themselves and/or their employer when a live connection is made. Hang-ups by the called party can be detected and the line disengaged quickly (within five or fewer seconds of receiving notification of the hang-up). The systems are expensive and therefore are not readily available to the kinds of users who are prone to irresponsible use.

Momentary Hold Queues. One important characteristic of predictive dialers is how they are designed to manage live connections when an operator is not available. Because the systems are predictive, and depending on how aggressively the systems are being operated, it is impossible to ensure that an operator will always be available for every connection that is made. To do so would require slowing the system down to essentially one operator per line per dial, which would strip the system of all of the productivity increases necessary to make their use economically desirable.

There are a number of ways predictive systems handle this situation. The easiest thing for the system to do is simply hang-up the line when an operator is not available and log the number to be called back later. Another more complicated alternative is to put the called party on hold and switch the party to an operator when one becomes available. This is known as a momentary hold queue, although nothing prevents the called party from hanging up, which would be anticipated when the called party hears nothing on the line.⁹ A slightly more sophisticated variation of the momentary hold queue is for the predictive dialing system to play a brief, pre-recorded request to the called party to "hold the line" for a live operator. An advantage of the momentary hold queue over the auto-disconnect is that, if the called party is willing to hold the line (and a majority of called parties are willing to hold, particularly with non-telemarketing types of calls), then the party is not called more than once. Many believe that a "please hold"

⁹ The TCPA does not regulate these kinds of telephone calls, so long as the caller does not run afoul of §227(b)(1)(A) (calling emergency lines and the like) or §227(b)(1)(D) (tying up two or more lines of a multi-line business).

request is more user-friendly to the consumer. They are given control over the call by being offered a choice to hold, if they want, and are thereby assured that the call is intended, and not some kind of mistake or prank or an effort to determine if no one is home. Use of the momentary hold queue can be an important factor in achieving the cost savings offered by predictive dialing equipment.

III. IMPACT OF THE TCPA & FCC REGULATIONS ON PREDICTIVE DIALERS

Statutory Definitions. Section 227 of the TCPA defines an 'automatic telephone dialing system' as "equipment which has the capacity- (A) to store or produce telephone numbers to be called, using a random or sequential number generator; and (B) to dial such numbers." Predictive dialers have the capacity to dial and usually store telephone numbers. Predictive dialers do not, however, generate the numbers to be called, either randomly or sequentially, and therefore some would argue that, based on the wording of this section of the TCPA, predictive dialers are not "automatic telephone dialing systems," and especially so when some other type of equipment actually stores the numbers to be called (such as a host computer). The FCC has not addressed this issue squarely but, based on the comments contained in its NPR, it would appear the FCC views predictive dialers as a type of auto dialer.

Restrictions on Use of Automated Telephone Equipment. Section 227(b)(1) of the TCPA prescribes four distinct restrictions on the use of "automated telephone equipment." Section 227(d) further requires imposition of technical standards and procedures. These restrictions are not necessarily linked to use of auto dialers per se. A number of the provisions of the TCPA affecting the use of predictive dialers make no reference to auto dialers at all.¹⁰

The restrictions under the TCPA that most concern users of predictive dialers are those that address the use of recorded voices to "deliver" or "transmit" a "message."¹¹ The FCC has apparently taken the position that the playing of any recorded voice whatsoever, even a request to "hold the line for an operator," is a "message" for the purposes of determining the effect of the TCPA. See NPR ¶15, wherein the FCC notes that predictive dialers "sometimes deliver a recorded message to a small percentage of called parties when all live operators are busy."¹²

10 See, for example, 47 U.S.C. §227(b)(1)(B)&(C).

11 See TCPA §227(b)(1)(B) (general restriction on initiating a telephone call, whether or not an auto dialer is used, subject to exemptions defined by statute or FCC regulation), and TCPA §227(d)(3) (requiring the prescription of technical and procedural standards).

12 (Emphasis added.) That comment is one of the few made by the FCC in which the Commission recognizes the difference of predictive dialers from other kinds of auto dialers. The FCC notes that the intent of such equipment is to connect the called party with a live operator, but accords that factor no significant weight or consideration. The FCC further implies that predictive dialers are used only for debt collection. This is not true. Predictive dialers are used in all industries where a large volume of outbound calling is desirable or necessary, and where it is advantageous for the calling party to have a live operator handle each live connection.

The term "message," however, is not defined within the TCPA. Nor does the FCC attempt any sort of explicit definition. Nor is there any clear indication of Congressional intent that the term "message" be construed as broadly as the FCC apparently does. Any references to the delivery or transmission of "messages" made in the Congressional Record in connection with enactment of the TCPA were clearly in contemplation of the use of ADRMPs and/or ADADs, where no live operator is involved and where a recorded solicitation is played to the called party. Nowhere in the Congressional Record is the use of momentary hold-queues and/or brief "please hold the line" requests cited as an example of an abusive use of an auto dialer, or otherwise an unreasonable invasion of privacy.

When justifying enactment of the TCPA, the distinction most often focused upon by Congress on the issue of invasion of privacy and generation of consumer complaints was the inherent difference of live operator calls from non-live operator calls. In this context, it is important to note again that the primary purpose of predictive dialing is to connect a live operator with the called party. Playing a recorded voice in connection with utilization of a momentary hold queue is limited to asking a called party to "hold the line" until an operator is available. The duration of such hold queues is typically very short, only one to fifteen seconds on average, during which time no other information or solicitation is transmitted to the called party.

Whether or not a momentary hold queue request to "hold the line for an operator" is interpreted as the delivery of a "message," then, goes to the heart of the distinction between operator and non-operator calls. Because the party called by a predictive dialer has the opportunity to talk to a live operator almost immediately, there is simply no reason to interpret the "please hold" request as a "message."

The primary concern of Digital Systems and its debt collection customers, in this regard, is with the self-identification requirements of the TCPA Technical Standards and Procedures prescribed by §227(d)(3). If the momentary hold queue is interpreted as a "message," then the caller is required to identify itself to the called party and provide additional information. The FCC has recognized that an issue exists as to compliance with the Fair Debt Collection Practices Act (FDCPA) if the calling party is required to identify itself. The FCC does not attempt to resolve this issue (see NPR ¶21, note 23) and does not explain how it reached a "tentative" conclusion that self identification would not violate the provisions of 15 U.S.C. 1692b(1). It is not clear to us how this can be the case, based on our reading of the FDCPA.

If "please hold the line" requests are "messages," then the Technical Standards and Procedures portions of the TCPA further raise a number of questions regarding the timing of the transfer of the called party to a live operator when an operator actually becomes available. For example, if the self-identification message is required for "please hold" requests, does this message have to be completed before switching the party to the operator? Would such a transfer before the message is completed constitute a violation of the TCPA? These questions are not answered or even considered by the FCC. However, it is clear that delaying the switch of the called party to a live operator simply to complete the required self-identification message would not only degrade the efficiency of the predictive dialing system, but would increase the annoyance factor inherent in the telephone call by forcing the called party to suffer

through listening to an unnecessary message when a live operator is waiting to talk to them.

Digital Systems submits, however, that self-identification is not important or needed within a "please hold" request, where the calling party intends to connect a live operator with the called party. The called party can ask the operator to identify himself and his employer, and can ask the caller not to call back. This essentially eliminates the basis for the complaints that led to enactment of this TCPA requirement, namely, that those who play messages with ADADs and ADRMPs never identify themselves or give a number where they can be reached, and that the called party is thus unable to complain and/or ask not to be called again. Predictive dialers give the called party this opportunity, since it is intended that the called party will talk to an operator.

In light of the foregoing, Digital Systems respectfully suggests that the term "message" be defined to exclude requests to hold the line for a live operator, or some similar request, where:

- a. the calling party intends to connect the called party with a live operator as soon as an operator is available;
- b. the duration of time the called party is placed on hold does not exceed sixty seconds;
- c. no solicitation or other request is made by the calling party in the recorded request; and
- d. where the system automatically releases the called party's line within 5 seconds of the time notification is transmitted to the system that the called party has hung up.

Adoption of such a definition would resolve the problems recognized by the FCC regarding compliance with the FDCPA, as well as any other issues of compliance with the spirit of the Technical and Procedural Standards

IV. REGULATORY EXCEPTIONS TO PROHIBITED USES OF AUTO DIALERS – COMMENTS.

In addition to its comments regarding predictive dialers, and the definition of the term "message," as discussed above, Digital Systems offers the following in response to the FCC's requests for comment on its proposed regulations defining exceptions to the prohibition set forth in Section 227(b)(1)(B). Digital Systems agrees with the majority of the distinctions and comments made by the FCC in crafting reasonable safe-harbors.

A. Non-Commercial Calls. We support the exception as defined within the NPR for non-commercial calls.

B. Non-Solicitation Commercial Calls. We support the exception as defined for non-solicitation commercial calls. A good example of this type of call is

where calls are made to poll customer satisfaction levels, without making any kind of solicitation.

C. Calls by Tax Exempt Non-Profit Organizations. We support the exception as defined for tax exempt non-profit organization calls.

D. Calls to Former or Existing Clientele. We support the exception as defined for calls to former and existing clientele. Regarding definition of "existing business relationship," we believe it is vital that a standard be set that is not unduly restrictive in its approach to "past" or "prior" relationships. It is often difficult to say when a relationship has changed from "current" to "past" in nature. What is a current customer is also sometimes difficult to define. Any definition should be broad enough to enable businesses to market ancillary goods and services, even if the customer had not purchased such additional goods or services from the caller before.

It might be argued that the definition of existing relationships should not be so broad as to permit calls to those with whom the caller once had a business relationship (for example, as a service provider), but where the caller has reason to know that the party is not interested in continuing the relationship (for example, where the caller knows the party has switched to another competing service provider). The difficulties in discerning and proving such facts however makes establishing a standard based on such factors practically impossible. Furthermore, there exists a very real public benefit to permitting competition for customers and enabling businesses to conduct customer retention campaigns designed to win back past clientele. Also, the definition of what constitutes a "past" or "prior" customer differs from industry to industry, and even product to product, based on many factors, including sales cycles. For example, vacations are purchased more often than automobiles. It would be preferable, then, that any definition of "prior" or "past" customer, as opposed to who may be a "current" customer at any given time, depend on the facts and circumstances of each case.

V. CONCLUSION

To summarize the key positions of Digital Systems made in this Comment:

- Digital Systems fully supports the goals of Congress and the American people to protect consumers from the irresponsible use of ADADs and ADRMPs, and to establish reasonable business standards for the telemarketing industry as a whole.
- Any restrictions on the use of automated telephone dialing technologies, however, **must** be balanced against the legitimate interests of the businesses, governmental agencies and public institutions that depend on such technologies.
- Irresponsible restrictions on legitimate uses of predictive dialing systems will undermine the competitiveness of American businesses and jeopardize the jobs these businesses provide. The impact of restricting such technologies can be measured in the billions of dollars, in light of both the bottom-line cost savings and productivity increases resulting

from the daily use of predictive dialers by thousands of responsible business entities and public institutions.

- The TCPA was not intended to regulate the use of predictive dialers, which are used to connect live operators to the persons called. Predictive dialer calls are therefore much more akin to live operator calls, which Congress and the FCC have recognized do not impose an unreasonable burden on the privacy interests of telephone consumers, than auto dialer calls. Predictive dialers are not ADADs.
- By adopting the definition of the term "message" as suggested by Digital Systems, the FCC can minimize the TCPA's unintended effects on legitimate uses of predictive dialers, and particularly the use of predictive dialers for debt collection purposes, while remaining true to the spirit and purposes of the TCPA. A simple request to "please hold the line for an operator" shouldn't be interpreted as the transmission of the kind of pre-recorded "message" that Congress intended to be the trigger of the statutory restrictions and technical standards imposed by the TCPA.

RESPECTFULLY SUBMITTED this 26th day of May, 1992.

DIGITAL SYSTEMS INTERNATIONAL, INC.,
a Washington corporation.

By 
Wm. Bradford Weller, General Counsel

EXHIBITS

- A. Company Background.
- B. Wall Street Journal article, May 19, 1992.
- C. US West Communications reference letter.
- D. American Banker article re Chase Manhattan Bank, February 7, 1992.
- E. Scott & White Memorial Hospital reference letter.
- F. American Heart Association newsletter.
- G. University of Washington reference letter.

DIGITAL SYSTEMS INTERNATIONAL, INC.

Company Background

- Corporate revenues for 1991 exceeded \$51 million.
- Over 500 Voicelink Systems installed throughout North America, the United Kingdom and Japan
- Highest growth rates in the state of Washington (a five year compound rate of 148.4% ; compounded annually over the last five years, 1986-1990).
- Recognized by some of the nation's premier business publications:
 - 100 Top Small Public Companies* INC. Magazine (5/92)
 - 100 Hot Growth Companies.*, BusinessWeek (5/27/91).
 - 200 Best Small Companies in America* , Forbes (11/12/90)
- 35% market share--largest in the predictive dialing industry
- Staffed by more than 400 employees
- Headquarters: Redmond, Washington
 - Branch offices: Wilmington, Delaware, Atlanta, Georgia and Chicago, Illinois.
- Subsidiaries: Voicelink Systems Ltd. in the United Kingdom.
- First predictive dialing technology to be introduced and marketed in Japan.

Established in 1979, Digital Systems International, Inc. is the leader in the design, manufacture, marketing and support of Intelligent Call Management systems. These systems, called Voicelink[®], encompass both outbound call management as well as inbound call management technology.

With one of the highest growth rates in the state of Washington, Digital Systems surpassed Microsoft, Aldus Corporation and others with a five year compound growth rate of 148.4% (1986-1990).

Our mission is to create new ways for companies to work smarter and not harder. Central to our business philosophy is a focus on creating products and services that deliver the highest quality communication and highest value to the end user. With more than 500 Voicelink systems installed throughout the United States, Canada, the United Kingdom and Japan, Digital Systems holds

more than 35% market share (more than twice that of the next closest competitor) and considers itself to be the leading technology developer and supplier of the most advanced call management systems in the industry.

Throughout the world, Voicelink systems help organizations of all sizes, from fortune 500 companies to smaller businesses, enhance the productivity, efficiency and revenue generating capabilities of their operations.

Our clients include the majority of the top banking institutions in the United States, along with local and regional utilities, telephone and telecommunications organizations, universities, hospitals and healthcare organizations, retail institutions and collection agencies, to name a few.

Our clients depend upon Voicelink systems to help them cost-effectively accomplish three basic business functions:

- acquiring new customers,
- providing services that help them retain the customers they have, and
- collecting from those who owe them money.

For example, in the banking and financial credit market (retailing), Voicelink systems are helping these industries manage collections on the nation's \$225.4 billion worth of credit card debt, as well as tackle the \$507 million (and rising) in credit card fraud.

In the utilities and telecommunications industries, our systems are assisting these organizations in providing higher levels of customer service while significantly reducing their costs of operations. In reducing these business costs, utilities are then able to free-up funds and deploy them to more important areas, such as energy assistance funds for low income families.

Internationally, the firm has established a wholly owned subsidiary, Voicelink Systems Ltd. in the United Kingdom. In Japan, the company has entered into an agreement with Kawasaki Steel Corporation (KSC) and C. Itoh Techno Science Corporation (CTC). Under this agreement, Digital Systems exports Voicelink technology to Japan for use in that country. CTC markets and supports the systems throughout Japan.

'Cure' for Junk Calls Faces Skeptical FCC

How many people have slammed down the phone after talking with a persistent telemarketer and said, "There oughtta be a law"? Everyone, right?

Well, some of those people are in Congress, and late last year they passed a law called the Telephone Consumer Protection Act that was publicized as a cure for those dinnertime junk calls from the likes of cold-calling stockbrokers and time-share-touting real estate agents.

Congress told the Federal Communications Commission to figure out ways to enforce the law, in part because Congress didn't want to appropriate money for enforcement. At the end of last month, the FCC made it clear that it's skeptical whether the technological solutions suggested by Congress can work. Worse, it says the law is so riddled with exemptions to protect freedom of religion and political speech that consumers probably wouldn't see much improvement anyway.

Comments Through May 26

The FCC says it will give a fair hearing to all comments made by May 26, but barring an FCC about-face, it looks as though consumers won't get any relief from junk calls—except for computer solicitations—as a result of the law.

Congressional sponsors are irate. The FCC is engaged in "a cynical attempt to eviscerate the clear intent of Congress," says Rep. Edward J. Markey (D., Mass.), who led the effort for the bill as chairman of the House Subcommittee on Telecommunications and Finance. Sen. Larry Pressler (R., S.D.), who co-sponsored the bill, plans to give a Senate speech criticizing the FCC today.

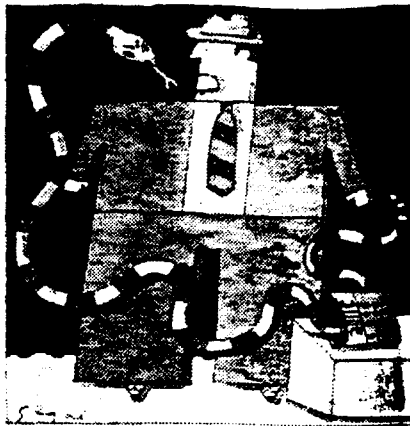
Privacy advocates are outraged. "Congress clearly punted some key issues to the FCC. Now the FCC wants to leave people naked in the storm," says Evan Hendricks, the publisher of Privacy Times, a Washington newsletter, who advocates stricter limits on telemarketers.

Residential phone owners are disappointed. Telemarketers "should be stopped," says Lewis Schwartz, a Stamford, Conn., lawyer who says his dinners with his children are interrupted an average of five times a week. "It's bad enough to get junk mail, but to clog your quality time with unsolicited calls is, to me, outrageous."

'Don't-Call' List

Meanwhile, telemarketers, who successfully lobbied to remove specific regulations from the law and leave them up to the FCC, can hardly believe they're getting off so easy. "In the past year, it's been popular to bash telemarketing," says Joseph Porfeli, president of Electronic Information Systems Inc., a fast-growing Stamford, Conn., firm that makes computer systems used by telemarketers. "The FCC questioned the need" for implementing the law, he says.

In the law, Congress suggested several



John Segal

technologies to curb commercial junk calls. One possibility was a national "don't-call" list—a database of names that all telemarketers would have to check before making a call. Another was putting all telemarketers in one calling exchange that objectors could then block from their own phones. Another was requiring all telemarketers to keep internal don't-call lists when prospects told them never to call again. Then there were low-tech options such as markings in phone books for residents who don't want junk calls.

To many, the national don't-call database looked like a winner. The state of Florida runs a two-year-old statewide don't-call system. Residents pay \$10 to put their name off limits to telemarketers, who must pay \$100 every quarter for a floppy diskette with the name, address and phone numbers of people they aren't allowed to call. Some 25,000 Florida residents have signed on. On a national basis, the Direct Marketing Association, a trade group, keeps a 400,000 person don't-call list, which is voluntary and available only to its members.

But the FCC says the law passed by Congress is so riddled with loopholes that consumers on a don't-call list would still be plagued by so many calls that it wouldn't be worth the cost. They could get called by charities, colleges, churches, police benevolent associations, state and local governments, election campaigns and pollsters who were exempted from the law.

Indeed, Henry Hodges, who works in the "No Sales Solicitations Call List" division of Florida's Agriculture and Consumer Affairs department, says, "A lot of folks get off the list after they find" they still get lots of unsolicited calls.

Jerry Waldron, senior counsel to the House subcommittee on telecommunications, says that drafters wanted to ban a larger variety of callers, but that "legal analysis told us we might risk having the whole bill struck down as unconstitutional if we went after political speech or charitable speech."

Then there's the privacy problem. Presumably, some people who don't want to be called wouldn't want to be on a list that was

accessible to the entire telemarketing industry, as well as to government agencies. Mr. Hendricks, the privacy advocate who favors a don't-call database, says, "Congress would have to pass additional protections for the database so the FBI or anyone else couldn't just rifle through it."

The FCC is even quicker to dismiss other possibilities. It says most residents don't yet have call-blocking capabilities that let them refuse calls from particular prefixes. Moreover, switching every telemarketer into a few prefixes would be difficult, because "it isn't clear whether the numbering system would support such a prefix," the FCC says. National telemarketers who make calls from numbers in electronic databases never see the local directories that have don't-call markings. The FCC even questions mandatory internal don't-call lists, because that could enable outsiders to see companies' proprietary marketing lists.

The telemarketing industry can hardly believe its good fortune. Margaret Gottlieb, director of government affairs for the marketing association, says the group pushed to remove specific regulations from the bill and let the FCC study the issues instead. "We're fairly pleased with respect to the FCC." However, she says, "even we in the industry... hope the FCC will mandate in-house suppress systems" that would force telemarketers to keep lists of people who have asked not to be called.

Many in the industry themselves dislike getting phone solicitations. Allan Adler, an attorney for the association who specializes in First Amendment rights, complains about brokers who call at work. But, he says, "telemarketing is extremely successful because a large portion of the public finds it extremely useful."

Most consumers would probably be happy to sacrifice such usefulness. Barbara Darrow, a Watertown, Mass., magazine reporter, says: "I really hate them, especially when they call on Saturday mornings. I think direct mail is horrible, but telephoning is much more invasive."

U S WEST Communications
1314 Douglas On-The-Mall
Omaha, Nebraska 68102
402 422-4004

EXHIBIT C

J. Kent Carlson
Executive Director
Market Services



May 18, 1990

Mr. Bob Panian
Regional Account Executive
Digital Systems International, Inc.
7659 178th Pl. N.E.
P.O. Box 908
Redmond, WA 98073-0908

Dear Bob:

I would like to let you know how much we appreciate what Voicelink has done for us.

Like most managers, we are asked to do more every year with less. We are expected to collect more revenue each year with fewer people and fewer resources.

I recently looked over this challenge and made a list of the factors that will work in our favor in reaching this year's goal. At the very top of that list I place the value of the Voicelink system in our operation.

As you know, we installed our first Voicelink system in Denver in August of 1988. We now have 15 systems, one in each of our major Credit Management Centers. Voicelink allows our Credit Consultants to speak with four times the number of people they could reach without the system. This has substantially increased the amount of revenue we collect.

We feel our relationship with Digital Systems has also grown during this time. We have always been impressed with the caliber of your people and the quality of your service. We consider Digital Systems to be an important partner as we continue in our efforts to improve our results.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Kent Carlson". The signature is fluid and cursive, with a long horizontal stroke at the end.

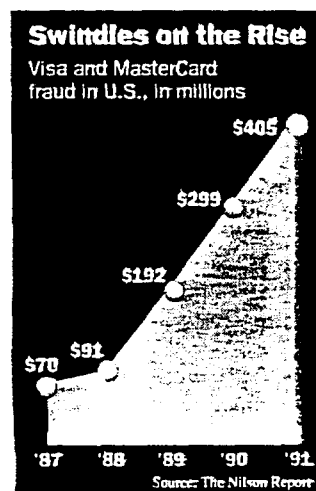
TECHNOLOGY/OPERATIONS

Chase Turns to Voicelink To Cut Card-Issuing Losses

By JEANNE IIDA

Chase Manhattan is emerging as one of the first U.S. bank issuers to use automation in the fight against interception of newly issued credit cards — the fastest growing type of fraud in their industry.

Nonreceipt fraud has long been a problem for U.K.-based banks. But now, spurred by the recession, it is the fastest growing kind of credit card fraud in the United States, according to H. Spencer Nilson, publisher of *The Nilson Report*, in Los Angeles.



"Mail can be intercepted the minute it leaves our doors, at airports, by the neighbors, on postal delivery trucks," said Benjamin Hernandez, assistant treasurer and early fraud determination manager at Chase.

9-Digit Nonreceipt Losses

Individual banks send out large volumes of credit cards at a time, with about 142 million new, renewal, and replacement cards issued annually by American Express, Discover, and members of MasterCard and Visa.

Chase, which has some 10 million cardholders, installed the system in December 1990 in its fraud determination area after seeing losses from nonreceipt fraud double over the previous year, according to the bank.

A bank with a credit card business the size of Chase could lose as much as \$10 million a year to nonreceipt fraud, observers said.

Nonreceipt fraud in 1990 cost U.S. issuers \$72 million and an additional \$50 million in investigative and administrative costs, while worldwide losses were \$120 million, according to Mr. Nilson.

He noted that 1991's figures were likely to double from the year-earlier period.

Guided by Customer Profiles

Since Chase installed its system, the bank said it has cut in half the incidence of fraud among the customers it contacts in high-risk areas.

The bank uses a telemarketing technology, Voicelink, from Digital Systems Inc., Redmond, Wash., to call preselected customers who fit certain profiles by living in a region prone to this type of fraud, or whose newly issued cards have been used for unusually large transactions.

When a person answers the telephone, the system transfers the call to a live operator, who verifies that the customer has received the card.

Chase programs the system to check the cards issued in states such as Florida, California, Texas, New York, and New Jersey, where historically most thefts have occurred.

Chase's use of the Voicelink technology improved its operators' productivity by 300% to 400% in one year, according to Mr. Hernandez.

Approaching a Call a Minute

Each operator takes about 45 calls an hour, and the unit as a whole makes 2,500 calls a day, up from 850 a year ago. The system screens out busy signals, no answers, and answering machines, passing only live voices over to an operator.

Other financial firms using the Voicelink system in their collections and telemarketing departments include the Bank of New York Co. Inc., Banc One Corp., BancorpHawaii Inc., Barclays Bank, NCNB Corp., and A.T. & T. Universal Card Services.

Chase believes the service will improve its relationship with customers.

"Every time you have contact with a cardholder and resolve a problem, it's a great enhancement of customer service," Mr. Hernandez said. □



SCOTT & WHITE

EXHIBIT E

October 4, 1991

Mr. Michael L. Darland
Chairman and Chief Executive Officer
Digital Systems International, Inc.
7659 178th Place Northeast
Redmond, Washington 98052-4953

Dear Mr. Darland,

We at Scott & White closed the financial books on our Fiscal Year 1990-91 on August 31, 1991. I am happy to report that our self-pay collection recovery increased by 2.4 Million Dollars over the previous fiscal year. This continued positive performance is proof perfect that our decision in the summer of 1989 to purchase the Voicelink system was indeed a good one. As you know, our first year using Voicelink was also extremely positive, allowing us to consider the system to have paid for itself within just a few short months. This past year is really just the gravy! Both years added together have added over 5.7 Million dollars to our personal pay collection effort.

This past year, my staff has been in contact with your technical staff on a few occasions, namely system upgrade to 5.3, and some reconfiguration due to long distance carrier specifications. It is always with professionalism, courtesy and dedication that your staff assists us with these endeavors. I feel confident when the Digital Systems folks are working on a project, it will be completed quickly, correctly and completely.

Keep up the good work. I know I'll be able to report another banner year in the Fall of '92.

Very truly yours,



Edward J. Rice

Director of Collection Activities

**SCOTT AND WHITE
MEMORIAL HOSPITAL
AND SCOTT, SHERWOOD
AND BRINDLEY
FOUNDATION**

SCOTT & WHITE CLINIC
An Association Affiliated
With Scott and White
Memorial Hospital and
Scott, Sherwood and
Brindley Foundation

**PATIENT
FINANCIAL SERVICES**

Heartlines

American Heart Association, Washington Affiliate Newsletter

Vol. VIII, No. 4 1990

New System Boosts Drive



Nancy Scherer, Ph.D., a past recipient of AHA research funding, recruits volunteers for February's door-to-door drive on Voicelink, a computerized autodialer system.

For years, the Washington affiliate has had one of the most successful door-to-door fund-raising campaigns in the United States. Now, with funding from the American Heart Association's national center, a computer system called Voicelink makes Washington's campaign one of the most sophisticated.

Voicelink revolutionizes the time-consuming, and expensive, telephone recruitment process with a computer that does the dialing and a whole lot more. This technology is brand new. It was created specially for the American Heart Association.

Each year, campaign staffers, who work out of the Seattle office, make hundreds of thousands of phone calls to secure the more than 31,000 volunteer blockworkers, and 5,000 lead-

ers, needed for the drive.

Voicelink insures American Heart Association operators reach a real person with every phone call, eliminating time wasted on answering machines, busy signals and no answers.

A smaller staff is now twice as efficient. For example, operators reached an average of 16 people per hour last year and this year, the average has jumped to 50 people per hour. In addition, the system also allows staff to keep better records, reducing the number of follow-up calls.

This year's campaign is scheduled for February 9-18. Voicelink will add to the successfulness of the American Heart Association's largest, educational and fund-raising campaign, which has a 1991 goal of \$875,000.

THE CAMPAIGN

EXHIBIT G



August 17, 1990

Mr. Michael Darland
President
Digital Systems International, Inc.
7659 - 178th Pl. N.E.
Redmond, WA 98052-4953

Dear Michael,

It is now the end of one full year since we began using the Voicelink System. The comparison of this year's statistics vs. last year's is striking. The efficiency and productivity has indeed been significant.

We recently completed our year-end review of our Telepledge calling campaign which ran September through July 30th. Since this was our first year using the Voicelink System, we wanted to share with you our results compared to the same period the previous year. They are:

Total Pledges	97% increase
Total Dollars Pledged	93% increase
Total Reached	78% increase
Decisions per hour	75% increase

The above results tell a great story and we anticipate the story will get even better; next year we will reach out to all of our alumni and friends to participate in the Campaign for Washington. Our Voicelink System has had a positive effect on the fundraising efforts at the University. We thank you and your team for everything from the excellent customer service to the planting of new ideas on how to use the system.

Sincerely,

David Wu
Co-Director,
Regional Gifts Committee
Director, Annual Giving

Mardell Moore
Associate Director,
Telepledge Program

U N I V E R S I T Y O F W A S H I N G T O N